

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MICHEL PAYNE.

Plaintiff,

**VS.**

DOUGLAS COUNTY.

Defendant.

8:05cv131

## MEMORANDUM AND ORDER

This matter is before the court on (1) filing no. 45, the Motion Requesting Exemption from Pacer Fees filed by the plaintiff Michel Payne; (2) filing no. 46, the plaintiff's Motion for Extension of Time to File Brief in Response to Defendant's Summary Judgment Motion; and (3) filing no. 47, the Motion by the defendant's attorney for leave to withdraw in light of filing no. 48, the entry of appearance by another attorney on behalf of the defendant. As a preliminary matter, filing no. 47 is granted. The Clerk of Court shall send a copy of this Memorandum and Order to the defendant's former counsel, and then remove him from the mailing list for this case.

The plaintiff asserts federal civil rights claims pursuant to 42 U.S.C. § 1983, alleging that officers of the Douglas County Sheriff's Department, together with Omaha police officers and others, broke into the plaintiff's home claiming to be searching for a bank robber who was not present there. The officers broke down the plaintiff's door and shot and killed the family dog, with the plaintiff's 10-year old son present in the house. In filing no. 36, the defendant moves for summary judgment on the grounds that the plaintiff has failed to demonstrate unlawful conduct by County employees and thus, no constitutional violation.

In filing no. 46, the plaintiff requests an extension of thirty (30) days to file a brief in opposition to the defendant's motion. As the plaintiff has only recently become pro se (filing no. 43), the requested extension is reasonable. The plaintiff shall have until thirty (30) days from the date of this Memorandum and Order to file a brief and any evidentiary material in opposition to the defendant's Motion for Summary Judgment.

As for the plaintiff's Motion Requesting Exemption from Pacer Fees, the court cannot grant the requested exemption. However, the plaintiff is free to come to the courthouse and use the public computer terminal outside the intake area of the Clerk's Office. Clerk's office personnel are available to instruct members of the public as to how to use that computer.

THEREFORE, IT IS ORDERED:

1. That filing no. 45, the plaintiff's Motion Requesting Exemption from Pacer Fees, is denied, but the plaintiff is welcome to come to the courthouse to use the public computer terminal available in the Clerk's Office;

2. That filing no. 46, the plaintiff's Motion for Extension of Time to File Brief in Response to Defendant's Summary Judgment Motion, is granted, and the plaintiff shall have until thirty (30) days from the date of this Memorandum and Order to file a brief and any evidentiary material in opposition to the defendant's Motion for Summary Judgment; that motion will be deemed submitted for decision after thirty (30) days from the date of this Memorandum and Order; and

3. That filing no. 47, the Motion by the defendant's attorney for leave to withdraw, is granted in light of filing no. 48, the entry of appearance by another attorney on behalf of the defendant; the Clerk of Court shall send a copy of this Memorandum and

Order to the defendant's former counsel, and then remove him from the mailing list for this case.

DATED this 16<sup>th</sup> day of May, 2007.

BY THE COURT:

s/ Joseph F. Bataillon  
JOSEPH F. BATAILLON  
Chief District Judge